

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JONATHAN CODY, II,	:	Civil No. 1:24-CV-927
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
MARC HOWELL, <i>et al.</i> ,	:	
	:	
Defendant.	:	Judge Jennifer P. Wilson

ORDER

AND NOW, on this 15th day of October, 2024, in accordance with the accompanying memorandum of law, **IT IS ORDERED** that the motion to dismiss filed by Defendants is **GRANTED IN PART AND DENIED IN PART**. (Doc.

8.) **IT IS FURTHER ORDERED** that:

1. The motion to dismiss is **GRANTED** regarding Defendants Stephen Marte, Even McKenna, Austin Snyder, Brandon Braugher as to Counts 2, 4, and 5. These Defendants are **DISMISSED** from Counts 2, 4, and 5 with prejudice due to failure to file a cause of action before the statute of limitations expired.
2. The motion to dismiss is **GRANTED** regarding Defendant City of Harrisburg as to Count 1. City of Harrisburg is **DISMISSED** from Count 1 with prejudice due to failure to file a cause of action before

the statute of limitations expired. The Clerk of Courts is directed to dismiss City of Harrisburg from this action.

3. The motion to dismiss is **DENIED WITHOUT PREJUDICE** regarding whether the individually named Defendants are entitled to qualified immunity as to the remaining counts.
4. The motion to dismiss is **GRANTED** regarding Count 1 for failure to state a claim for negligent operation of a motor vehicle. Count 1 is **DISMISSED WITHOUT PREJUDICE**.
5. The motion to dismiss is **GRANTED** regarding Count 3 for failure to state a claim for conspiracy. Count 3 is **DISMISSED WITHOUT PREJUDICE**.
6. For clarity, after this order, the counts that survive the motion to dismiss are Count 2 against Defendant Howell, Count 4 against Defendant Howell and Count 5 against Defendant Howell.

7. Plaintiff may file an amended complaint **by no later than November 6, 2024**. If no amended complaint is filed by this date, Defendants Stephen Marte, Even McKenna, Austin Snyder, and Brandon Braugher shall be dismissed from this action and the counts listed in Paragraph 6 will proceed.

s/Jennifer P. Wilson
JENNIFER P. WILSON
United States District Judge
Middle District of Pennsylvania